

108TH CONGRESS  
1ST SESSION

# S. 1551

To provide educational opportunities for disadvantaged children, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 31 (legislative day, JULY 21), 2003

Mr. McCAIN introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To provide educational opportunities for disadvantaged children, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

### 3   **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Excellence through  
5   Choice to Elevate Learning Act”.

### 6   **SEC. 2. PURPOSES.**

7       The purposes of this Act are—

8               (1) to assist States to—

9                       (A) give children from low-income families

10                   the same choices among all elementary and sec-

1           ondary schools and other academic programs as  
 2           children from wealthier families already have;

3           (B) improve schools and other academic  
 4           programs by giving parents in low-income fami-  
 5           lies increased consumer power to choose the  
 6           schools and programs that the parents deter-  
 7           mine best fit the needs of their children; and

8           (C) more fully engage parents in their chil-  
 9           dren's schooling; and

10          (2) to demonstrate, through a 3-year national  
 11          grant program, the effects of a voucher program  
 12          that gives parents in low-income families—

13               (A) choice among public, private, and reli-  
 14               gious schools for their children; and

15               (B) access to the same academic options as  
 16               parents in wealthy families have for their chil-  
 17               dren.

18 **SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

19          (a) IN GENERAL.—There is authorized to be appro-  
 20          priated to carry out this Act (other than section 11)  
 21          \$1,800,000,000 for each of fiscal years 2004 through  
 22          2007.

23          (b) EVALUATION.—There is authorized to be appro-  
 24          priated to carry out section 11 \$17,000,000 for fiscal  
 25          years 2005 through 2008.

1 **SEC. 4. PROGRAM AUTHORITY.**

2 (a) IN GENERAL.—The Secretary shall make grants  
3 to States, from allotments made under section 5 to enable  
4 the States to carry out educational choice programs that  
5 provide scholarships, in accordance with this Act.

6 (b) LIMIT ON FEDERAL ADMINISTRATIVE EXPENDI-  
7 TURES.—The Secretary may reserve not more than  
8 \$1,000,000 of the amounts appropriated under section  
9 3(a) for a fiscal year to pay for the costs of administering  
10 this Act.

11 **SEC. 5. ALLOTMENTS TO STATES.**

12 (a) ALLOTMENTS.—The Secretary shall make the al-  
13 lotments to States in accordance with a formula specified  
14 in regulations issued in accordance with subsection (b).  
15 The formula shall provide that the Secretary shall allot  
16 to each State an amount that bears the same relationship  
17 to the amounts appropriated under section 3(a) for a fiscal  
18 year (other than funds reserved under section 4(b)) as the  
19 number of covered children in the State bears to the num-  
20 ber of covered children in all such States.

21 (b) FORMULA.—Not later than 90 days after the date  
22 of enactment of this Act, the Secretary shall issue regula-  
23 tions specifying the formula referred to in subsection (a).

24 (c) LIMIT ON STATE ADMINISTRATIVE EXPENDI-  
25 TURES.—The State may reserve not more than 1 percent

1 of the funds made available through the State allotment  
 2 to pay for the costs of administering this Act.

3 (d) DEFINITION.—In this section, the term “covered  
 4 child” means a child who is enrolled in a public school  
 5 (including a charter school) that is an elementary school  
 6 or secondary school.

7 **SEC. 6. ELIGIBLE SCHOOLS.**

8 (a) ELIGIBILITY.—

9 (1) IN GENERAL.—Schools identified by a State  
 10 under paragraph (2) shall be considered to be eligi-  
 11 ble schools under this Act.

12 (2) DETERMINATION.—Not later than 180 days  
 13 after the date the Secretary issues regulations under  
 14 section 5(b), each State shall identify the public ele-  
 15 mentary schools and secondary schools in the State  
 16 that are at or below the 25th percentile for academic  
 17 performance of schools in the State.

18 (b) PERFORMANCE.—The State shall determine the  
 19 academic performance of a school under this section based  
 20 on such criteria as the State may consider to be appro-  
 21 priate.

22 **SEC. 7. SCHOLARSHIPS.**

23 (a) IN GENERAL.—

24 (1) SCHOLARSHIP AWARDS.—With funds  
 25 awarded under this Act, each State awarded a grant

1 under this Act shall provide scholarships to the par-  
2 ents of eligible children, in accordance with sub-  
3 sections (b) and (c). The State shall ensure that the  
4 scholarships may be redeemed for elementary or sec-  
5 ondary education for the children at any of a broad  
6 variety of public and private schools, including reli-  
7 gious schools, in the State.

8 (2) SCHOLARSHIP AMOUNT.—The amount of  
9 each scholarship shall be \$2000 per year.

10 (3) TAX EXEMPTION.—Scholarships awarded  
11 under this Act shall not be considered income of the  
12 parents for Federal income tax purposes or for de-  
13 termining eligibility for any other Federal program.

14 (b) ELIGIBLE CHILDREN.—To be eligible to receive  
15 a scholarship under this Act, a child shall be—

16 (1) a child who is enrolled in a public elemen-  
17 tary school or secondary school that is an eligible  
18 school; and

19 (2) a member of a family with a family income  
20 that is not more than 200 percent of the poverty  
21 line.

22 (c) AWARD RULES.—

23 (1) PRIORITY.—In providing scholarships under  
24 this Act, the State shall provide scholarships for eli-  
25 gible children through a lottery system administered

1 for all eligible schools in the State by the State edu-  
2 cational agency.

3 (2) CONTINUING ELIGIBILITY.—Each State re-  
4 ceiving a grant under this Act to carry out an edu-  
5 cational choice program shall provide a scholarship  
6 in each year of the program to each child who re-  
7 ceived a scholarship during the previous year of the  
8 program, unless—

9 (A) the child no longer resides in the area  
10 served by an eligible school;

11 (B) the child no longer attends school;

12 (C) the child's family income exceeds, by  
13 20 percent or more, 200 percent of the poverty  
14 line; or

15 (D) the child is expelled or convicted of a  
16 felony, including felonious drug possession, pos-  
17 session of a weapon on school grounds, or a vio-  
18 lent act against an other student or a member  
19 of the school's faculty.

20 **SEC. 8. USES OF FUNDS.**

21 Any scholarship awarded under this Act for a year  
22 shall be used—

23 (1) first, for—

1 (A) the payment of tuition and fees at the  
2 school selected by the parents of the child for  
3 whom the scholarship was provided; and

4 (B) the reasonable costs of the child's  
5 transportation to the school, if the school is not  
6 the school to which the child would be assigned  
7 in the absence of a program under this Act;

8 (2) second, if the parents so choose, to obtain  
9 supplementary academic services for the child, at a  
10 cost of not more than \$500, from any provider cho-  
11 sen by the parents, that the State determines is ca-  
12 pable of providing such services and has an appro-  
13 priate refund policy; and

14 (3) finally, for educational programs that help  
15 the eligible child achieve high levels of academic ex-  
16 cellence in the school attended by the eligible child,  
17 if the eligible child chooses to attend a public school.

18 **SEC. 9. STATE REQUIREMENT.**

19 A State that receives a grant under this Act shall  
20 allow lawfully operating public and private elementary  
21 schools and secondary schools, including religious schools,  
22 if any, serving the area involved to participate in the pro-  
23 gram.

1 **SEC. 10. EFFECT OF PROGRAMS.**

2 (a) TITLE I.—Notwithstanding any other provision  
 3 of law, if a local educational agency in the State would,  
 4 in the absence of an educational choice program that is  
 5 funded under this Act, provide services to a participating  
 6 eligible child under part A of title I of the Elementary  
 7 and Secondary Education Act of 1965 (20 U.S.C. 6311  
 8 et seq.), the State shall ensure the provision of such serv-  
 9 ices to such child.

10 (b) INDIVIDUALS WITH DISABILITIES.—Nothing in  
 11 this Act shall be construed to affect the requirements of  
 12 part B of the Individuals with Disabilities Education Act  
 13 (20 U.S.C. 1411 et seq.).

14 (c) AID.—

15 (1) IN GENERAL.—Scholarships under this Act  
 16 shall be considered to aid families, not institutions.  
 17 For purposes of determining Federal assistance  
 18 under Federal law, a parent's expenditure of schol-  
 19 arship funds under this Act at a school or for sup-  
 20 plementary academic services shall not constitute  
 21 Federal financial aid or assistance to that school or  
 22 to the provider of supplementary academic services.

23 (2) SUPPLEMENTARY ACADEMIC SERVICES.—

24 (A) IN GENERAL.—Notwithstanding para-  
 25 graph (1), a school or provider of supple-  
 26 mentary academic services that receives scholar-



1 ship funds under this Act shall, as a condition  
2 of participation under this Act, comply with the  
3 provisions of title VI of the Civil Rights Act of  
4 1964 (42 U.S.C. 2000d et seq.) and section  
5 504 of the Rehabilitation Act of 1973 (29  
6 U.S.C. 794).

7 (B) REGULATIONS.—The Secretary shall  
8 promulgate regulations to implement the provi-  
9 sions of subparagraph (A), taking into account  
10 the purposes of this Act and the nature, vari-  
11 ety, and missions of schools and providers that  
12 may participate in providing services to children  
13 under this Act.

14 (d) OTHER FEDERAL FUNDS.—No Federal, State, or  
15 local agency may, in any year, take into account Federal  
16 funds provided to a State or to the parents of any child  
17 under this Act in determining whether to provide any  
18 other funds from Federal, State, or local resources, or in  
19 determining the amount of such assistance, to such State  
20 or to a school attended by such child.

21 (e) NO DISCRETION.—Nothing in this Act shall be  
22 construed to authorize the Secretary to exercise any direc-  
23 tion, supervision, or control over the curriculum, program  
24 of instruction, administration, or personnel of any edu-

1 cational institution or school participating in a program  
2 under this Act.

3 **SEC. 11. EVALUATION.**

4 The Comptroller General of the United States shall  
5 conduct an evaluation of the program authorized by this  
6 Act. Such evaluation shall, at a minimum—

7 (1) assess the implementation of educational  
8 choice programs assisted under this Act and their ef-  
9 fect on participants, schools, and communities in the  
10 school districts served, including parental involve-  
11 ment in, and satisfaction with, the program and  
12 their children's education;

13 (2) compare the educational achievement of  
14 participating eligible children with the educational  
15 achievement of similar non-participating children be-  
16 fore, during, and after the program; and

17 (3) compare—

18 (A) the educational achievement of eligible  
19 children who use scholarships to attend schools  
20 other than the schools the children would at-  
21 tend in the absence of the program; with

22 (B) the educational achievement of chil-  
23 dren who attend the schools the children would  
24 attend in the absence of the program.

1 **SEC. 12. ENFORCEMENT.**

2 (a) REGULATIONS.—The Secretary shall promulgate  
3 regulations to enforce the provisions of this Act.

4 (b) PRIVATE CAUSE.—No provision or requirement  
5 of this Act shall be enforced through a private cause of  
6 action.

7 **SEC. 13. FUNDING.**

8 The Committee on Finance and the Committee on  
9 Appropriations of the Senate and the Committee on Ways  
10 and Means and the Committee on Appropriations of the  
11 House of Representatives shall identify wasteful spending  
12 (including loopholes to revenue raising tax provisions) by  
13 the Federal Government as a means of providing funding  
14 for this Act. Not later than 60 days after the date of en-  
15 actment of this Act, the committees referred to in the pre-  
16 ceding sentence shall jointly prepare and submit to the  
17 Majority and Minority Leaders of the Senate and the  
18 Speaker and Minority Leader of the House of Representa-  
19 tives, a report concerning the spending (and loopholes)  
20 identified under such sentence.

21 **SEC. 14. DEFINITIONS.**

22 In this Act:

23 (1) CHARTER SCHOOL.—The term “charter  
24 school” has the meaning given the term in section  
25 5210 of the Elementary and Secondary Education  
26 Act of 1965 (20 U.S.C. 7221i).

1           (2) ELEMENTARY SCHOOL; LOCAL EDU-  
 2           CATIONAL AGENCY; PARENT; SECONDARY SCHOOL;  
 3           STATE EDUCATIONAL AGENCY.—The terms “elemen-  
 4           tary school”, “local educational agency”, “parent”,  
 5           “secondary school”, and “State educational agency”  
 6           have the meanings given the terms in section 9101  
 7           of the Elementary and Secondary Education Act of  
 8           1965 (20 U.S.C. 7801).

9           (3) POVERTY LINE.—The term “poverty line”  
 10          means the poverty line (as defined by the Office of  
 11          Management and Budget, and revised annually in  
 12          accordance with section 673(2) of the Community  
 13          Services Block Grant Act (42 U.S.C. 9902(2))) ap-  
 14          plicable to a family of the size involved.

15          (4) SECRETARY.—The term “Secretary” means  
 16          the Secretary of Education.

17          (5) STATE.—The term “State” means each of  
 18          the 50 States.

